



DATE: April 24, 2012

APPROVED
BY:

A handwritten signature in blue ink, appearing to be "JWB", is written over a light gray rectangular background.

**MINUTES OF THE
LAKE COUNTY PLANNING COMMISSION
April 24, 2012**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chair Hausch called the meeting to order at 5:04 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Morse, Pegoraro (alt. for Troy), Schaedlich, Welch (Alt. for Aufuldish), Zondag, and Mmes. Hausch. Staff present: Messrs. Boyd, Radachy, and Ms. Truesdell.

MINUTES

On page 2, last paragraph, delete "up to six to up to ten" and rewrite as "six to ten". Mr. Pegoraro moved and Mr. Zondag seconded the motion to approve the February 28, 2012 minutes.

All voted "Aye".

The March, 2012 meeting was cancelled.

FINANCIAL REPORT

February 2012 Financial Report

Mr. Morse moved and Mr. Schaedlich seconded the motion to accept the February, 2012 Financial Report.

All voted "Aye".

March 2012 Financial Report

Mr. Boyd pointed out that the Refunds and Reimbursement line item reflects the salaries and chargebacks received from federal grants which are administered through this office.

Mr. Morse moved and Mr. Schaedlich seconded the motion to accept the March, 2012 Financial Report.

All voted "Aye".

Ms. Pesec arrived at 5:09 p.m.

PUBLIC COMMENT

There was no public comment.

LEGAL REPORT

John P. O'Donnell, Chief Assistant Prosecuting Attorney, said there were no legal issues to report.

DIRECTOR'S REPORT

Mr. Boyd said that the Department received the official endorsement from the State of Ohio on the "Eastern Lake County Coastal Tributaries Balanced Growth Plan". Mr. Radachy has been actively consulting with Madison Township and Leroy Township on proactive zoning text issues. The Fiscal Year 2012-14 Federal Grants Consolidated Plan, which guides the investments of the CDBG and HOME programs, is in process and is due in May.

ANNOUNCEMENT

Mr. Boyd said that the Northeast Ohio Planning and Zoning Workshop will be held June 22, 2012 at LaMalfa Holiday Inn Express in Mentor.

Mr. Brotzman arrived at 5:15 p.m.

SUBDIVISION REVIEW

Subdivision Activity Report

Mr. Radachy said that Mountainside Farms Phase 3a in Concord Township, 15 lots, was recorded. The Brooks Subdivision at the corner of Bacon Road and Lake Road in Painesville Township had a pre-application meeting and may be coming in as fee-simple lots. The property that was Eagle Creek off of Girdled Road and Jennings Drive in Leroy Township is no longer an active subdivision as it was subdivided through the lot split procedure.

LAND USE AND ZONING REVIEW

Madison Township Proposed District Amendment – From B-1 Business and R-2, Single-Family to R-4, Multiple Dwelling

Mr. Radachy said that the property owner was requesting rezoning of 15.704 acres of land that he owns on Hubbard Road from B-1 and R-2 to R-4. The property consists of 17.824 acres, but 2.12

areas are already R-4. The property was currently vacant and that it was next to condominiums, to the north, single family adjacent on the north and south, apartments, on the southwest, vacant to the south and agriculture to the east. The owner owns the apartments adjacent to the southwest. That property is zoned B-1 and the apartments are a legal non-conforming use. When the apartments were built, it was legal to have apartments in a B-1 district.

The vacant property to the south was rezoned to R-4 in 2002 and it has not been developed. The comprehensive plan map shows the property to remain B-1 and R-2. Staff recommended that the zoning districts remain the same. The Land Use and Zoning Committee recommended that the current B-1 property be rezoned to R-4 and the R-2 property remain R-2.

Mr. Radachy did not know why Madison wanted to keep the land B-1 and R-2. The comprehensive plan committee may have overlooked this area during the planning process. They made a lot of changes on US 20 and other parts of the Township and were concentrating on the commercial zones on US 20. The Township thought there was too much commercial land available. Staff stated that the Township is currently working on language to break up the commercial districts in a way to reduce the amount of retail land and allow for other, heavier commercial uses like contractors and auto repair outside of the core retail areas.

Mr. Radachy stated multi-family use and senior uses are allowed in a PUD. R-2 acted like a buffer between the A-R and the apartments.

If the Land Use and Zoning Committee decided to recommend rezoning the B-1 only and leaving the R-2, they should have considered recommending the existing apartment buildings be rezoned to R-4 also. That would make it conforming. In order to develop R-2 in the back, a dedicated road would have to be extended into the property.

The Land Use and Zoning Committee thought it would be a waste of money requiring the owner to rezone the non-conforming use. Staff stated that the Zoning Commission could do it for the owner at no charge.

The Land Use and Zoning Committee ruled in favor of recommending that the B-1 property be rezoned to R-4 and the R-2 property to remain R-2.

Mr. Adams asked if this was rezoned, would it conform to the comprehensive plan.

Mr. Radachy said no.

Mr. Zondag asked about the wetland in the back.

Mr. Radachy said no matter how it was developed, the wetlands will still be an issue that developers and engineers will have to deal with.

Mr. Brotzman recused himself from voting because he owns an adjacent piece of land. He said he supported the buffer between the agriculture and multi-family. He said it was a very wet site that would take the cooperation of adjacent developments, Schooners Point and Sandy Cove, where all of this needs to drain through.

Mr. Zondag was concerned about the lack of pervious surface areas. He would prefer R-2 rather than R-4. R-4 will compound the property problems to adjacent owners.

Mr. Adams moved to accept staff's recommendation to deny this on the basis of not conforming to the Comprehensive Plan. Mr. Zondag seconded the motion.

Ms. Pesec said that perhaps a comment should be added that if they were to rezone it anytime in the future, a buffer should be added at the back of the property.

Ms. Hausch asked for the motion to be read.

Ms. Truesdell said the motion is to recommend to accept the recommendation of staff to deny the change.

Mr. Schaedlich said it is to accept the recommendation. Leave out "to deny".

Ms. Pesec said she will wait to add the comment.

Ms. Hausch asked for a vote.

Five voted "Aye".
Three voted "Nay".
One abstained.

Ms. Pesec asked that her comment be reflected in the minutes. She thought it was important that staff discuss the buffer in the letter that goes to the Township and for them to look very carefully at any water and wetlands issues.

Mr. Brotzman rejoined the Planning Commission as a voting member.

Leroy Township Proposed Text Amendment – Text Amendment to Section 3, Districts; Section 7, General Requirements; Section 18, Industrial and Manufacturing; Section 29, Special Interchange District Regulations; Section 30, Site Plan Review; Section 31, Natural Resource Protection; and Section 32, Architectural Design Standards

Mr. Radachy said that this text amendment is in response to the Planning Commission recommendations from February, 2012. A public hearing is required because they are changing sections.

AMENDMENT SUMMARY

- Changing the name of B-1 Business and Commercial to General Business in Section 3. Moving Industrial and Manufacturing from #5 to #7.
- Adding new district names, B-3, Community Business and B-4, Neighborhood Business to Section 3, Districts; Section 30, Site Plan Review; and Section 32, Architectural Design Standards. Section 31, Natural Resource Protection, was resubmitted without any changes.

- Added to Section 30.03 the district titles General Business, Special Interchange and Industrial and Manufacturing for B-1, B-2 and I, respectively. B-1's title was changed from Business and Commercial to General Business in Section 32.01.
- Moving revised Performance Standards that were proposed for Section 17 to Section 7.12 in General Requirements.
- Deleting Sections 18 and 29 and adding language that these sections are reserved for future text. Sections 17, 18 and 29 are to be condensed into one section.
- Revised the Table of Contents.

Staff and the Land Use and Zoning Committee recommended that the text be accepted.

Mr. Schaedlich moved and Mr. Adams seconded the motion to accept the recommendation of the Land Use and Zoning Committee to recommend approval of the proposed changes to the Leroy Township text amendment.

All voted "Aye".

Leroy Township Proposed District Amendment: 45.702 Acres B-1 to B-3, Community Business

Mr. Radachy said that now that they created a new B-3, Community Business, the Zoning Commission decided to add it the Zoning Map. They are rezoning land that is located on Painesville-Warren Road (SR 86), LeRoy Center Road, and Huntoon Road. This area is also known as Five Points. The land is currently zoned B-1 and there are a couple of businesses close to the intersection and some homes that are legal non-conforming uses.

Mr. Radachy said the comprehensive plan recommends commercial and retail districts to be attractive, inviting, convenient, and respectful of the rural character of the township. It goes on to state that the Township should establish a commercial, traditional town center at Five Points and they should remove commercial zoning on properties fronting Painesville-Warren Road between Mildon Drive and Callow Road, to prevent the creation of a commercial strip district in the Five Points area. Staff stated that part of the final recommendation was done. The strip zoning no longer goes to Callow, but there is a small parcel by Mildon.

The existing zoning consists of a number of homes and a church and is currently B-1.

Mr. Radachy said they want to change the current zoning of B-1 to B-3, Community Business. This is designed to give them flexibility in the future. It is supposed to be a mixture of institutional uses, government buildings, small scale retail, or a town center. The current zoning is legal non-conforming uses.

Ms. Pesec asked what the plan says about this.

Mr. Radachy said that the homes have always been legal non-conforming.

Mr. Radachy said currently there are eight parcels that have split zoning.

Mr. Schaedlich said we are not creating a commercial district.

Mr. Radachy said that according to the County Engineer, this area is going to have a traffic circle, so the Township may be back to redo the R district.

Mr. Radachy said staff recommends approving the district amendment with the recommendation that the 0.19 acre section of 7A-5A-39 and 7A-5A-41 zoned B-1 be rezoned R-1 instead of B-3. Staff's recommendation on parcel 7A-5A-41 would make the district change conform to the Comprehensive Plan. The Land Use and Zoning Committee recommended all the land between Callow Road and Mildon Drive be rezoned to R-1. There is a little piece of land in front of the church that should be rezoned to R-1 also.

Land Use and Zoning recommended accepting the recommendation of staff to recommend approval of the district amendment in Leroy Township because it conforms to the Comprehensive Plan.

Mr. Schaedlich made a motion recommending the district change be made with staff's recommendation of rezoning 7A-5A-41 and the 0.19 acres of 7A-R-39 R-1. Mr. Pegoraro seconded the motion.

All voted "Aye".
Motion passed.

Leroy Township Proposed District Amendment: District Change of 2.11 Acres B-1 to B-4 to Neighborhood Business

Mr. Radachy said now that Leroy Township created a new B-4, Neighborhood Business district, the Zoning Commission decided to add it to the Zoning Map. They are rezoning land that is located on Painesville-Warren Road (SR 86), and Girdled Road. The land is currently zoned B-1 and there is one business, a bar, and two houses that are legal non-conforming uses. They want to rezone it to B-4, Neighborhood Business. They want to change the zoning from B-1 to B-4.

The Comprehensive Plan recommends commercial and retail districts to be attractive, inviting, convenient, and respectful of the rural character of the township. It goes on to state that the Township should restrict the expansion of business at this intersection.

Mr. Radachy said that staff recommends approving the district amendment because it conforms to the Comprehensive Plan.

The Land Use and Zoning Committee recommended approval.

Mr. Pegoraro moved and Mr. Schaedlich seconded the motion to accept the recommendation of the Land Use and Zoning Committee and recommend approval of the District Change of 2.11 Acres from B-1 to B-4, Neighborhood Business in Leroy Township.

Mr. Zondag asked if that solved the problem and Mr. Radachy said that solution requires someone to expand those lots.

Mr. Boyd said that, ideally, there should be parcel based zoning as opposed to split lot zoning.

Seven voted "Aye".
One voted "Nay".
Motion passed.

REPORTS OF SPECIAL COMMITTEES

There was no report of special committees

CORRESPONDENCE

There was no correspondence.

OLD BUSINESS

Subdivision Regulations Amendments

Mr. Boyd directed attention to the summary sheet of proposed Subdivision Regulations Amendments. These have been reviewed by both Eric Condon and Pat Nocero of the Prosecutor's Office. He plans on setting up a meeting with Mr. O'Donnell and Josh Horecek to review them. He asked for a motion to set a time for a Public Hearing in May.

Amendments to Article I Section 4 (B), Article II, Article III Section 3, Article III Section 4, Article III Section 6, Article III Section 7, Article IV Section 3(B)(9), Article V Section 10.

Revision to Article I Section 4(B) (Page 1): This amendment is adding grubbing as an activity not permitted prior to the acceptance of the improvement plans by the Board of Commissioners. It also states that clearing is permitted after the improvement plans have been accepted by the Planning Commission. "Accepted by the Planning Commission" means the improvement plan cover sheet has been signed by the Planning Commission Chair or Secretary. This is done after the County Engineer, County Sanitary Engineer and County SWCD have approved the improvement plans.

Addition to Article II (Page 1): Addition of definitions of clearing and grubbing.

Revision to Article III Section 3(G)(1) (Page 2): Adding language that states the time period for an extension (one year), the number of allowable extension requests (maximum of three), and establishing that the extension must be applied for prior to the expiration date. It also establishes that the extension is based on unusual or unforeseen circumstances.

Addition of Article III Section 3(I) (Page 2-3): Establishes if a preliminary plan has been substantially changed, but not at the direction of the Planning Commission, then it needs to be re-approved.

Addition of Article III Section 4(G) (Page 3): Establishes that if the final plat is changed, the improvement plans have to reflect that change.

Addition of Article III Section 6(G) (Page 4): Adding language that states the time period for extension (one year), the number of allowable extension requests (maximum of two) and establishes that the extension must be applied for prior to the expiration date. It also establishes that the extension is based on unusual or unforeseen circumstances.

Addition of Article III Section 7(2) (Page 4): Requires all testing and inspection fees be collected prior to the plat being signed if the improvements were constructed in lieu of surety.

Addition of Article IV Section 3(B)(9)(Page 6): Requires the applicant to remove any existing temporary cul-de-sacs, properly grade, seed the adjacent property and install any property pins if necessary. Current Article IV Section 3(B)(9) was renumbered as 10; 3(B)(10) was renumbered as 11; and 3(B)(11) was renumbered as 12.

Revision to Article V Section 10(A)(2) (Page 6): Adding language that requires the applicant to pay all testing and inspections fees to be collected prior to a plat being signed if the improvements were constructed in lieu of surety. The revisions also will require the applicant to provide a construction surety that will cover the full cost to install the improvements.

Revision to Article V Section 10(A)(B) (Page 7): Removal of 110% references.

Revision to Article V Section 10(F) (Page 7): Adding language that states the County Engineer and the County Sanitary Engineer will provide testing of improvements in addition to the inspection roles. It also establishes that the applicant will pay inspection or testing fees to all departments and agencies that have jurisdiction per their regulations prior to installation of improvements. The revision also states that the applicant must comply with the County Engineer, County Sanitary Engineer, their inspectors and their rules. This revision also allows for the voiding of the final plat approval by the Planning Commission, the taking of the surety to complete the project, or both actions.

Revision to Article V Section 10(G) (Page 7): Adding language that allows for the conversion of a construction surety to a maintenance surety.

Mr. Zondag moved and Mr. Adams seconded the motion to conduct a Public Hearing in May for the purpose of presenting and reviewing the proposed Subdivision Regulations.

Mr. Pegoraro asked about the difference between clearing and grubbing.

Mr. Radachy said clearing is just taking out the brush and cutting the trees. Grubbing is removing stumps and doing some minor excavation activities and grading. That had not been defined before.

Ms. Pesec asked about easements and if anything can be added to strengthen the open space areas of subdivisions.

Mr. Radachy said that easements are not included in the above revisions.

Mr. Boyd said that the easement is part of the design issue. Ultimately, it is harder to find people who want to take those and the Planning Commission cannot enforce easements. That is for the developer or homeowner's association. Many of the geographical areas remaining are not prime land and the open spaces are in perimeters where they ultimately become extensions of back yards. Mr. Boyd said they were not included in this set of revised Subdivision Regulations but they can be taken up at a future date.

Mr. Zondag said that no one wants to be responsible and pay for maintenance of the easements. It is a financial responsibility.

Mr. Boyd said that some townships in southern Ohio level impact fees for public services, infrastructure, and parks. Municipalities have long been able to do so, but now townships can. There is also a recreation fee for each lot that is paid before the houses are sold. It is a hot topic but the legislation is there to do that.

Mr. Zondag said that this topic can be addressed at a later time and is not included with the one on the table.

Mr. Radachy said it would be a lot of work to prepare this topic for public hearing. It has to be part of the next set of revision process.

Ms. Pesec said that if we have that as an agenda item for the next meeting, we can start addressing the detention pond issue and easement issue. Now is the perfect time to figure this out.

All voted "Aye".
Motion passed.

Mr. Boyd said he would prefer staff start the research process and consult with the agencies and the legal ramifications of doing this.

NEW BUSINESS

Resolution of Appreciation for Vanessa Pesec, Past Chair

Ms. Hausch read the Resolution of Appreciation to Vanessa Pesec for the two years she served as Planning Commission Chair.

WHEREAS, Vanessa T. Pesec faithfully began serving as the Lake County Planning Commission Chair on January 26, 2010 and continued for two years in this position until January 31, 2012;

WHEREAS, Vanessa T. Pesec has given exemplary service during this time by actively supporting numerous planning efforts at the regional, county, municipal, and township levels;

WHEREAS, Vanessa T. Pesec endeavored to assist the members and staff of the Lake County Planning Commission by the application of her knowledge of the Lake County Subdivision Regulations and township zoning resolutions in the decisions and recommendations made to the townships;

WHEREAS, Vanessa T. Pesec has demonstrated excellence in leadership as Lake County Planning Commission Chair by overseeing the Lake County Coastal Plan Committee, the Land Use and Zoning Committee and the Landscape Committee and has had an essential roll in appointing new or replacement members to these committees;

NOW, THEREFORE BE IT RESOLVED, that Vanessa T. Pesec's leadership as Chair and her demonstrated concern for the community and its environmental resources have been an asset to the Lake County Planning Commission members, and;

BE IT FURTHER RESOLVED, that Vanessa T. Pesec be acknowledged for serving the office of Lake County Planning Commission Chair with distinction and that this resolution signifies the members' appreciation.

ADOPTED this 27th day of March 2012.

Jason W. Boyd, Director/Secretary

Madison Township - Kimball Estates

Mr. Brotzman updated the Commission on Kimball Estates. Mr. Boyd said the initial email from Mr. Brotzman was responded to by the Engineer who had looked at the issue and that George Hadden of the County Engineer was going to meet with the developer. Mr. Brotzman asked why it always seems like we are at the same place.

Mr. Radachy said he had not spoken to Josh Horecek of the Prosecutor's Office giving him the history of the project. He spoke to Mr. Horacek two months ago, and he had been given the preliminaries on the project and he was working on it.

Mr. Brotzman asked if there were departmental timelines or was it just at the whim of the developer as to when he wants to act.

Mr. Radachy said the elected official assigns the workload to his staff.

Mr. Brotzman asked that Mr. Radachy to check on what is going on. May 23rd marks six years since Mr. Gills put the developer on notice of the violation.

Memo of Understanding

Ms. Pesec asked about the resolution formalizing the Planning Commission duties.

Mr. Boyd said he planned on bringing it up this coming May, resurfacing the conversation with the Commissioners to clearly define roles of the Federal Grants Office and the Planning Commission.

PUBLIC COMMENT

There was no comment from the public.

ADJOURNMENT

Mr. Pesec moved and Mr. Brotzman seconded the motion to adjourn the meeting.

All voted "Aye".
Motion passed.

The meeting adjourned at 6:27 p.m.